IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Mat.Appeal.No. 480 of 2007()

OPGW.103/2005 of FAMILY COURT, THIRUVALLA
.....

PETITIONER: APPELLANT/RESPONDENT

JESSY JOHN
VAYALINKAL, MOZHOOR PO,
MANJAMUTTOM, KOTTAYAM.

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS: PETITIONER/RESPONDENT

SABU JOHN,
OLICKAL KIZHAKKETHIL,
MUNDUKOTTACKA, VETTIPURAM, PATHANAMTHITTA,.

BY ADV. SRI.MVS.NAMBOOTHIRY

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

Mat.Appeal No.480 of 2007

Dated 25th October, 2007.

J U D G M E N T

Kurian Joseph, J.

Pursuant to the directions issued by this court, the appellant, respondent, their child Sona and Smt.Mini, the wife of the respondent are present. Having extensively talked to the parties, we are convinced that in the interests of the child, certain modifications regarding the custody of the child are necessary. Sri.Sabu, the father of the child submits that in the event of the child being sent with the mother, his visitorial rights may be reserved. It is further submitted that for a substantial portion of Onam, Christmas and mid-summer holidays, the custody of the child may be given to him.

2. Smt.Jessy, the mother of the child submits that she has lost her job in Soudi Arabia and she is at home since June, 2007. It is also submitted that she has plans for securing a job. It is further submitted that she will be with

the child and she will not leave the child and go abroad, and even if she goes abroad, she will take the child with her. In the event of such a situation also, it is submitted that she will see that at least once in a year, during the mid-summer vacation, the father is in a position to see the child and be with the child for some time.

3. Having regard to the above submissions, we dispose of the appeal with the following directions :-

(1) The custody of the child Sona shall be entrusted to her mother Jessy.

(2) In case she goes abroad for job, she shall not leave the child at home; she shall take the child with her.

(3) In case she goes abroad for job, she must ensure that the father is in a position to meet the child for a few days, at least once in a year.

(4) In the event of the child being educated in Kerala, the custody of the child shall be given to the father for one-half of Onam, Christmas and summer vacations (first half with the father and second half with the mother).

In the event of violation of any of the conditions stipulated above, it will be open to the parties to approach this court and seek appropriate orders. In that view of the matter, we set aside the judgment dated 12.5.2006 in O.P. (G&W) No.103/05 passed by the Family Court, Thiruvalla.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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